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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,083	02/01/2001	Fred Smith	218-010137	6320

7590 11/18/2002
Russell D. Orkin
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

EXAMINER

LEE, SEUNG H

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,083

Applicant(s)

SMITH, FRED

Examiner

Seung H Lee

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Receipt is acknowledged of the response filed on 20 August 2002, which has been entered in the file.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 30, line 11: The phrase "said transaction indicia" lacks proper antecedent basis.

Appropriate clarification and correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United

States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 21-39, 42-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Koehane (US 6,364,206, of the record).

Koehane teaches a fuel dispensing system comprising a fuel dispenser including a customer interface for conducting a transaction including a lottery ticket purchase, a payment acceptor for receiving a payment for the transaction, and a lottery ticket dispenser for dispensing lottery tickets; and a control system operatively associated with said fuel dispenser and adapted to cause said lottery ticket dispenser in said fuel dispenser to dispense a lottery ticket to a customer in response to receiving the payment for the transaction through said payment acceptor in said fuel dispenser, the payment acceptor comprises a card reader for reading payment information from a customer payment card, the customer payment card is a credit card and said control system is further adapted to communicate with an outside credit authorization network to receive credit authorization for the transaction, the payment acceptor comprises a cash acceptor for receiving a cash payment from the customer, the control system is further adapted to communicate the transaction information related to the purchase of the lottery ticket to a lottery controller, the lottery ticket dispenser in said fuel dispenser is adapted to dispense a plurality of lottery ticket types, the lottery ticket dispenser is adapted to dispense a lottery ticket having customer-selected play numbers and said customer interface in said fuel dispenser is adapted to allow a customer to input said customer-selected play numbers, the lottery ticket dispenser in said fuel dispenser is adapted to dispense a preprinted lottery ticket type, the lottery ticket dispenser in said

fuel dispenser is adapted to dispense a random-number lottery ticket type, the transaction indicia communicated to the customer and to said lottery ticket dispenser by said fuel dispensing system. Koehane teaches a method of selling lottery tickets comprising prompting a customer to conduct a lottery ticket purchase in conjunction with the fueling transaction; receiving input from the customer regarding the lottery ticket purchase; conducting the fueling transaction; effecting payment at said fuel dispenser for a cost associated with the lottery ticket purchase and a cost associated with the fueling transaction; dispensing a lottery ticket to the customer corresponding to the lottery ticket purchase, the fuel dispenser is adapted to perform said dispensing step, a separate lottery ticket dispenser is adapted to perform said dispensing step, a customer interface supporting the input of information by the customer in said receiving step, the customer interface supports selection of multiple lottery ticket types, including preprinted number, random number, and customer-selected number lottery ticket types, the customer interface of said fuel dispenser is adapted to permit the customer to enter a desired set of play numbers in association with the purchase of a customer-selected number lottery ticket, a lottery ticket purchase transaction (526) is engaged in after a fuel transaction (522) has been initiated or simultaneous (see claims 1-38; Fig. 5; col. 7, line 36- col. 8, line 9; col. 9, lines 24-38).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 40, 41, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koehane in view of Maloney et al. (US 6,119,932)(hereinafter referred to as 'Maloney').

The teachings of Koehane have been discussed above.

Although, Koehane teaches the fuel dispensing system having a lottery ticket transaction, he fairly teaches a lottery ticket purchase transaction is authorized by an operator based upon an age of a customer.

However, Maloney teaches an identification verification system where an operator is employed to enforce an age limitation for sale of lottery tickets (see Figs. 1 and 2; col. 4, line 61-col. 5, line 11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Maloney to the teachings of Koehane in order to prevent the sales of lottery to the underaged customer wherein the sales of the lottery ticket to underaged customers are prohibited, and therefore an obvious expedient.

Response to Arguments

8. Applicant's arguments filed 20 August 2002 have been fully considered but they are not persuasive.

In response to applicant's argument that "...neither hints nor suggests a fuel dispensing system or method,.....can only be engaged in after a fuel dispensing transaction has been imitated.....be engaged in while fuel is dispensed...." (see page 10, line 11+), the Examiner respectfully disagrees with the applicant wherein Koehane teaches a lottery dispense system can be imitated after conducting fueling transaction or simultaneously as discussed in paragraph 5 above.

In response to the applicant's argument that ".....operator to authorize a lottery ticket purchase transaction.....age limitations on the legal ability to purchase a lottery ticket....." (see page 10, line 18+), the Examiner respectfully provides a Maloney reference in which Maloney teaches that the operator to conduct/verify the age of customer for sale of lottery tickets as discussed in paragraph 7 above.

In response to applicant's argument that "a declaration of interference for claims 21-37 is respectfully requested" (see page 11, line 7+), the Examiner respectfully request the evidence/swearing back of reference such as an affidavit or a declaration in order to invoke the interference procedure.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2876

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure;

Atchley [US 5,493,315], Kaehler [US 6,032,126], Phillips et al [US 6,193,154] disclose a dispensing machine.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Seung H. Lee whose telephone number is (703) 308-5894. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

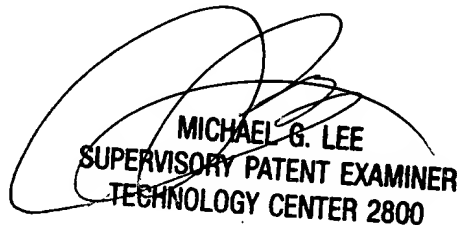
If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax-phone number for this group is (703) 308-5841 or (703) 308-7722.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.lee@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Seung H. Lee
Art Unit 2876
November 12, 2002



MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800